

### **REMARKS**

In response to the non-final Official Action of March 12, 2010, no claims have been amended. Reconsideration of the rejection of the claims is requested.

#### **Claim Rejections – 35 USC §102**

At section 5, claims 1-2, 4, 8, 12 and 15-16 are rejected under 35 USC §102(e) as anticipated by Rudolph et al. (U.S. 2001/0054082, hereinafter Rudolph).

With respect to independent product claim 12, the Office asserts Rudolph discloses a product comprising a radio frequency identification transponder, wherein the transponder comprises tag information corresponding to a multimedia object, wherein tag information is intended to be retrieved by a portable, digital device for facilitating the creation of a multimedia message with the tag information in the multimedia device. The Office applies the same basis to independent claims 1, 8, and 15-16. Applicant respectfully disagrees.

Rudolph is directed to a system for accessing a remote computer network, the system comprising a package, an identification tag coupled to the package that stores identifying data unique to the package, an interrogator located external to the package, and a computer system coupled to the interrogator for exchanging information with a remote site (Rudolph, Abstract). However, Rudolph fails to disclose both tag information corresponding to a multimedia object and facilitating the creation of a multimedia message in response to retrieving the tag information.

Rudolph discloses that a reader interrogates an identification tag of a product, and that the reader is coupled to a computer system which accesses a computer network over the Internet, to establish a link with a conventional web browser of the reader (Rudolph, paragraph [0036]). After a link is established, the unique product identification and serial number are transferred to the computer network, which can execute a script so that the web browser displays a welcome screen from computer storage and identify the package (Rudolph, paragraph [0037]). The link then can provide information about the product, including user guides, supply sales, warranty,

servicing, and other information of interest to the consumer or end user (Rudolph, paragraph [0037]). By completing a questionnaire at the link, a user creates a cookie that creates consumer/end user information that can be used in product registration (Rudolph, paragraph [0037]). After providing this information, “promotional items could be mailed or shipped to the consumer based upon information obtained by the consumer” (Rudolph, paragraph [0038], emphasis added). The promotional items can be in digital form, such as screen savers and video content (Rudolph, paragraph [0037]).

There is no tag information corresponding to a multimedia object disclosed in the process described above, which is also cited by the Office. The identification tag can include a URL to a web site, where a user can input personal information and then receive promotional items, which can be in multimedia form. However, the identification tag does not actually correspond to the promotional materials, nor does the URL associated with the identification tag correspond to the promotional materials. The promotional items are only accessed by the consumer inputting personal information and thus, any multimedia object corresponds to the user’s information, and not the tag information. As an example, Rudolph states that:

“Using a user sign-in and password, along with information contained on a local file, such as a cookie, the identity of a consumer may be authenticated, thus reducing fraudulent promotional/product distribution. Progressive rewards can be offered, serving to promote brand and product loyalty. With a product such as a computer game/video game, individual user activity can be tied into distribution of personalized features. (Rudolph, paragraph [0039]).”

Therefore, Rudolph fails to disclose tag information corresponding to a multimedia object.

Furthermore, Rudolph fails to disclose that the tag information is intended to be retrieved by a portable, digital device for facilitating the creation of a multimedia message with the tag information in the multimedia message. The Office asserts that this feature is disclosed in paragraph [0038] of Rudolph, where the distribution of

promotional materials to the consumer is described. However, Rudolph is silent on transmitting a "multimedia message." As Applicant has stated previously, the commonly understood definition of a multimedia message, which is also stated in the application as filed, "refers to an enhanced type of message transmitted to or from a mobile phone...[which] enables also multimedia objects such as graphics, images, video clips and/or sound clips to be transmitted" (Application as filed, page 4, line 34-37). This form of messaging can be contrasted with short message service, which is "a text message service allowing the transmission of short text messages" (Application as filed, page 4, lines 29-30). Rudolph does not disclose a "multimedia message" as this phrase is understood by a person of ordinary skill in the art.

However, even if the disclosure of Rudolph is considered to disclose a multimedia message, the independent claims of the present invention make clear that it is the recipient of the tag information corresponding to the multimedia object that are creating a multimedia message for transmission. In Rudolph, it is the reader 14 used by the consumer that interrogates the identification tag and establishes a link using the reader's browser, and after inputting the consumer's information, the consumer receives the promotional materials. Thus, the consumer in Rudolph does not receive tag information and then creates a multimedia message including the tag information, but rather the consumer receives the identification tag, and after several steps, the consumer receives the promotional material. At no point in the process described in Rudolph is the reader/consumer creating a multimedia message or triggering the creation of a multimedia message.

Therefore, it is further submitted that Rudolph fails to disclose tag information intended to be retrieved by a portable, digital device for facilitating the creation of a multimedia message with the tag information in the multimedia message.

Because Rudolph fails to disclose each and every element of independent claim 12, it is respectfully submitted that Rudolph does not anticipate claim 12, and claim 12 is in allowable form.

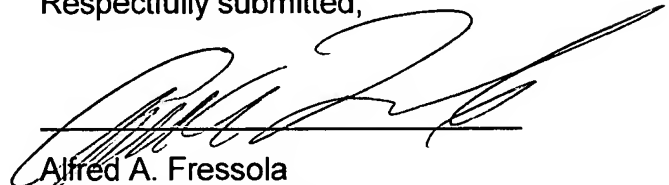
For similar reasons, it is respectfully submitted that independent claims 1, 8, and 15-16 are also not anticipated by Rudolph and are in allowable form.

At least in view of their dependency on the independent claims, it is respectfully submitted that dependent claims 2-7, 9-11 and 13-14 are also in allowable form.

In view of the foregoing, it is respectfully submitted that the present application is in condition for allowance and such action is earnestly solicited.

The Commissioner is hereby authorized to charge to deposit account 23-0442 any fee deficiency required to submit this paper.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Alfred A. Fressola', is written over a horizontal line.

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